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8 Attorneys for Defendant and Cross-Complainant
3PL SYSTEMS, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

3 WALTER L. MITCHELL, III,
an individual.

Case No.: SACV11-00534 AG(ANx)
Hon. Andrew J. Guilford

Plaintiff

V.

7 | 3PL SYSTEMS, INC., a California Corporation,

3PL SYSTEMS, INC.'S REPLY TO CROSS-DEFENDANTS' OBJECTIONS TO BILL OF COSTS

Hearing date: May 9, 2013
Time: 10:00 a.m.

Defendant

0 3PL SYSTEMS, INC., a California corporation

Cross-Complainant,

V.

3 WALTER L. MITCHELL, III, an
4 individual, JONATHAN LANSAGAN,
5 an individual, CHRISTOPHER
6 VINCIGUERRA, an individual,
7 TRINNOS TECHNOLOGY LLC, a
California Limited Liability
Corporation, and ROES 1 – 10,
inclusive.

Complaint filed: April 7, 2011
Trial Date: November 6, 2011
Judgment Entered: April 10, 2013

Cross-Defendants.

1 **I. REPORTERS' TRANSCRIPT COST**

2 In good faith, 3PL will withdraw its requests for costs of reporters' court
 3 transcripts.

4 **II. DEPOSITIONS - EXPERT WITNESS FEES**

5 L.R. 54-3.5(c) allows reasonable witness fees paid to a deponent, including fees
 6 actually paid to an expert witness deponent pursuant to FRCP 26(b)(4)(E). Here, 3PL
 7 paid Mr. Nolte \$1,980.00 for his fee in attending an expert witness deposition. *See*
 8 Declaration of Janet S. Park in Support of 3PL's Application to Clerk to Tax Costs
 9 ("Park Decl.") ¶ 8, Exhibit F.

10 Cross-Defendants mistakenly argue that such a fee should be reduced to a
 11 statutory witness fee, but the statutory amount pertains only to fees paid to a trial
 12 witness. L.R. 54-3.5(c) ("However, such fees do not include expert witness fees paid
 13 to a **trial** witness in excess of the statutory witness fee...."). 3PL did not pay
 14 Mr. Nolte to attend trial, rather 3PL paid Mr. Nolte to attend a **deposition**. Deposition
 15 fees are allowed, and should not be reduced.

16 **III. REPRODUCTION OF DOCUMENTS - TRIAL EXHIBIT COSTS**

17 At trial, only one version of trial exhibits was to be used, and so the parties
 18 agreed to split the cost of copying four (4) sets of trial exhibits for use at trial - one set
 19 for the witness stand, one set for the judge, and one for each counsel table. The total
 20 cost of copying four sets of trial exhibits (3873 pages per set) was \$2,808.40. Park
 21 Decl. ¶ 9, Exhibit G. The prevailing party is entitled to the **full** cost of copying of trial
 22 exhibits. See L.R. 54-3.10(b) ("The cost of copies of documents or other materials
 23 admitted into evidence...."). Here, Cross-Defendants have already paid for half of the
 24 amount. 3PL Systems, Inc. is entitled to the other half, which 3PL actually paid, in
 25 the amount of \$1,404.20.

26 **IV. FEES FOR SERVICE OF PROCESS**

27 Under L.R. 54-3.2, fees for service of subpoenas pursuant to FRCP 45 are
 28 allowed. Cross-Defendants give no evidence showing why service of process for

1 subpoenas should be “\$100 per service.” Here, 3PL paid for service of subpoenas to
 2 18 different entities, located in several different states, with service fees ranging from
 3 \$47.00 to \$390.00. *See* Park Decl. ¶ 4, Exhibit B.

4 As the prevailing party, 3PL is entitled to **full** costs of service of process, rather
 5 than “reasonable” costs. LR. 54-3.2 does not include the word “reasonable” and thus
 6 does not limit fees for service of process to a subjective “reasonable” amount.
 7 (Compare L.R. 54-3.5, where the fees are limited by the word “reasonable”). No
 8 reduction should be taken for 3PL’s subpoena costs.

9 **V. CONCLUSION**

10 3PL’s current proposed costs are as follows:

Fees for service of process	\$5,443.60
Reporter’s transcripts	\$0.00
Depositions	\$11,465.56
Witness Fees	\$91.70
Docket fees	\$25.00
Certification, exemplification and reproduction of documents	\$1,621.95
Total	\$18,647.81

21 DATED: May 6, 2013

BROWN, WEGNER & BERLINER LLP

22 By: /s/ Janet S. Park

23 William J. Brown, Jr.
 24 Matthew A. Berliner
 25 Matthew K. Wegner
 26 Janet S. Park

27 Attorneys for Defendant & Cross-Complainant
 28 3PL SYSTEMS, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service of documents are being served with a copy of the foregoing document and its attachments and accompanying documents via the Court's CM/ECF system per Local Rules.

/s/ Janet S. Park
JANET S. PARK